

Legal Notice of Hierarchy of Laws

A legal **hierarchy** of laws, In the U.S. system of **constitutional** government, the **hierarchy** of laws includes constitutional law, legislative or statutory law, and administrative or regulatory law. The legal hierarchy means that not all laws are created with equal authority. Constitutional law overrules the other kinds of laws.

In terms of the basic elements of the hierarchy, a constitution and the constitutional law, states the grounding legal and democratic principles that the Federal, and State government is obligated to uphold. Because government is obligated to uphold of the constitutional law, it is considered the supreme law in the U.S. system of Constitutional Government; to which all other laws must adhere.

Respect for the hierarchy of laws is fundamental to the rule of law, as it dictates how the different levels of law will apply in practice. In general, the fundamental levels of hierarchy consist of: a Constitution **and** Constitutional law.

A constitution serves to protect the people against arbitrary power.¹ The basic purposes of a written constitution and Constitutional law are to secure to people certain unchangeable rights and remedies and to curtail unrestricted governmental activity within defined fields.² The guarantees provided by the federal and state constitutions apply equally to all and cannot be denied to any one person without weakening the rights of all.³ Indeed, a constitution is not primarily designed to protect majorities who are usually able to protect themselves but to preserve and protect the rights of individuals and minorities against the arbitrary actions of those in authority.⁴ It is thus a function of constitutions to declare and protect fundamental rights.⁵ A constitution is intended to preserve practical and substantial rights, not to maintain theories.⁶ A constitution is, therefore, concerned with practical, substantial rights, not with those that are unclear and gain hold by subtle and involved reasoning.⁷ Constitutional rights cannot be created by statutes or rules,⁸ nor can they be abrogated by executive or judicial action.⁹ Further, the absence of an enabling statute cannot be construed to nullify rights provided by a constitution if those rights are sufficiently specific.¹⁰ 16 C.J.S. Constitutional Law § 6 . Declaration and protection of fundamental rights.

The word "constitution" means a declaration of fundamental laws or principles for the government of a nation or state.¹ A constitution is the fundamental law by which all

people of the state are governed;² it is the basic charter of state governance.³ A state constitution receives its force from the express will of the people⁴ and is the embodiment of the will of the people⁵ regarding the limits on governmental power.⁶ The legitimacy of any constitution is derived primarily from the consent of those agreeing to be bound by it.⁷ Where a constitution asserts a certain right or lays down a certain principle of law or procedure, it speaks for the entire people as their supreme law.⁸ Whatever the constitution prescribes, the general assembly, and every officer or citizen to whom the mandate is addressed, must do, and whatever it prohibits, the general assembly, and every officer and citizen, must refrain from doing.⁹ The government has broad powers, but the means it uses to achieve its ends must be consistent with the letter and spirit of the constitution.¹⁰ A strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way.¹¹ The powers granted under the Constitution are not infinite; the power the Constitution grants, it also restrains.¹² Although a constitution may be either written (as in the case of the United States) or unwritten (as in the case of Great Britain), the word "constitution," as applied to the organization of our federal and state governments, always implies a written document which is understood to have been enacted by the direct action of the people.¹³ A constitution is a fundamental document, which, in recognizing citizens' rights and establishing government, provides essential checks and balances whose complexity is to be neither undervalued nor disregarded.¹⁴ 16 Am. Jur. 2d Constitutional Law § 1 2021 Update.

Constitutional law is that department of the law which treats constitutions and the validity of enactments as tested by the criterion of conformity to fundamental law.¹ It is the field of law dealing with aspects of constitutional provisions/laws, such as restrictions on government powers and guarantees of rights.² It is also the body of law deriving from the U.S. Constitution and dealing primarily with governmental powers, civil rights, and civil liberties.³ In constitutional law, the word "constitution" implies the written instrument agreed upon by the people as the absolute rule of action and decision for all departments and officers of government, in respect to all points covered by it, which must control until it is changed by the authority which established it.⁴ 16 C.J.S. Constitutional Law § 4 . Constitutional law.

Statutory law, in order to be valid, must conform to applicable constitutions and **constitutional law**, both federal and state.¹ In other words, constitutional language controls legislative language.² Accordingly, constitutional provisions/laws control in any conflict with lesser laws, such as statutes, local ordinances, administrative regulations,³ and case law.⁴ No statute can, therefore, breathe life into an instrument made and executed in contravention of a constitutional inhibition.⁵ 16 C.J.S. Constitutional Law § 8. Conformance of statutory and common law to constitution.

The principal features of the American system of government established by the United States Constitution include representative government,⁹ dual government involving both state and federal aspects,¹⁰ the securing of individual rights^{§ 8}. Purpose, application, and effect of United States..., and privileges through constitutional restrictions,¹¹ and a separation of powers among the legislative, executive, and judicial branches of either government, as well as between the governments themselves.¹² The Constitution of the United States was ordained and established not by the states in their sovereign capacities but, as the Preamble to the Constitution declares, by the people of the United States¹³ and was adopted as their voluntary act for their own protection.¹⁴ It was particularly intended to affect individuals rather than states.¹⁵ 16 Am. Jur. 2d Constitutional Law § 8. 2021 Update

The vitality of constitutional principles/laws also cannot be allowed to yield simply because of a disagreement with them.⁴ Thus, an effort to accommodate community sentiment or the wishes of the majority of the voters, although usually valid and desirable, cannot justify the abandonment of a constitution or **fundamental constitutional rights**⁵ 16 C.J.S. Constitutional Law § 7. Constitution not subject to suspension, departure, or abandonment.

In the United States, the Congress and all of its members, as well as the President of the United States,¹¹ all state¹² and federal officials, and all state and federal courts and judges¹³ are as bound by the United States Constitution as are ordinary citizens. 16 Am. Jur. 2d Constitutional Law § 6 2021 Update. This would include Sheriffs and all law enforcement, are bound by the United States Constitution, and Constitutional Law.

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The hierarchy of law in our system is simple: constitutional language controls legislative language. And accordingly, Constitutional Law controls in any conflict with lesser laws, such as statutes, local ordinances, administrative regulations, and case law. The Texas Government & Texas Judiciary have declared the hierarchy of law in our system is relatively simple: Constitutional Law overrules statutory law which in turn overrules administrative regulations which finally overrules local codes and ordinances. <https://www.oercommons.org/courseware/lesson/26307/overview>

Further every public officer has a duty of care held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer to uphold the United States and state Constitution, and Constitutional Law, every public officer's oath creates a legal obligation.

In tort law, a **duty of care** is a legal obligation, which is imposed on an individual requiring adherence to a standard of reasonable care while performing any acts that could foreseeably harm others.

63C Am.Jur.2d, Public Officers and Employees, §247 "As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. Indiana State Ethics Comm'n v Nelson (Ind App) 656 NE2d

1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

Further every public officer who refuses to uphold the United States and state Constitution, and Constitutional Law. Violates 5 U.S.C. § 7311 which explicitly makes it a federal criminal offense (and a violation of oath of office) for anyone employed in the United States, or State Government (including members of Congress) to "advocate the overthrow of our constitutional form of government. "We (judges) & officials have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would-be treason to the Constitution." -- Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v. Will, 449 U.S. 200.

An official would also be in violation of 25CFR11.448-ABUSE OF OFFICE, & VIOLATION OF an official's OATH OF OFFICE 18 USC 3571.

When a public officer refuses to uphold the United States and state Constitution, and Constitutional Law, he/she usurps authority which is not given, and It is Treason to the Constitution. -- Cohen v. Virginia, (1821), 6 Wheat. 264 and U.S. v. Will, 449 U.S. 200.

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